

The Ins and Outs of How to Run a Meeting

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Land Use Board Must have Rules of Procedure

- RSA 676:1, every local land use board must have rules of procedure
- Attached are versions for Planning Board and ZBA as prepared by OEP
- Should contain standard agenda prescribing flow of meeting

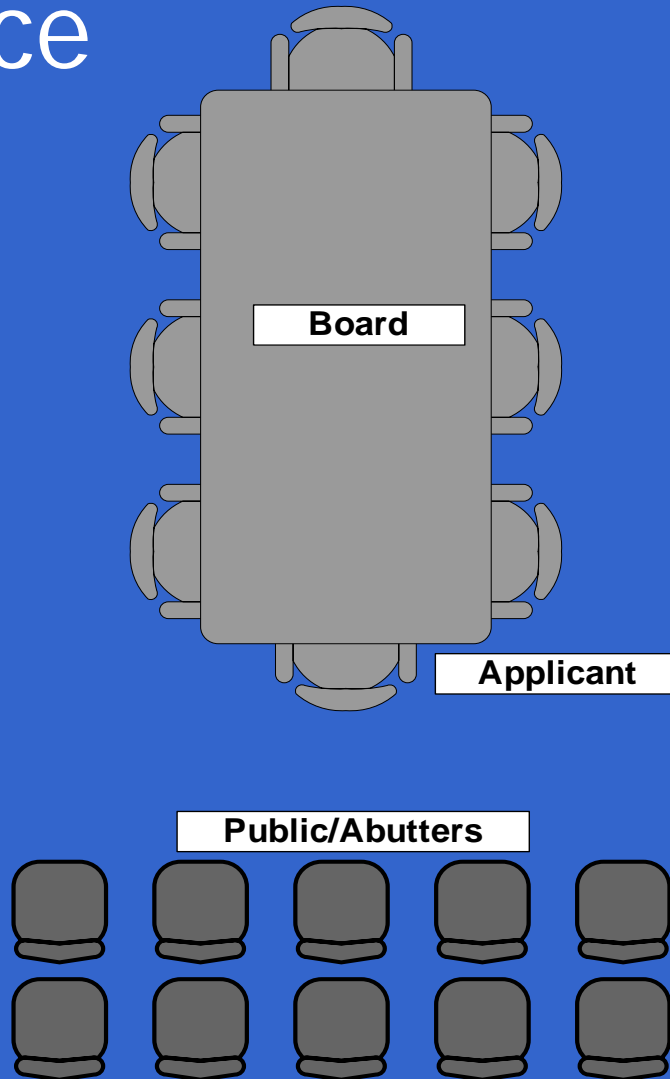
Good Meeting Begins Before Meeting

- Rules of Procedure should delegate to Chair duty/ability to set agenda and control addition of new items
- Provide for one week prior to meeting information submission deadline
- Mail all received information to board members Friday before meeting

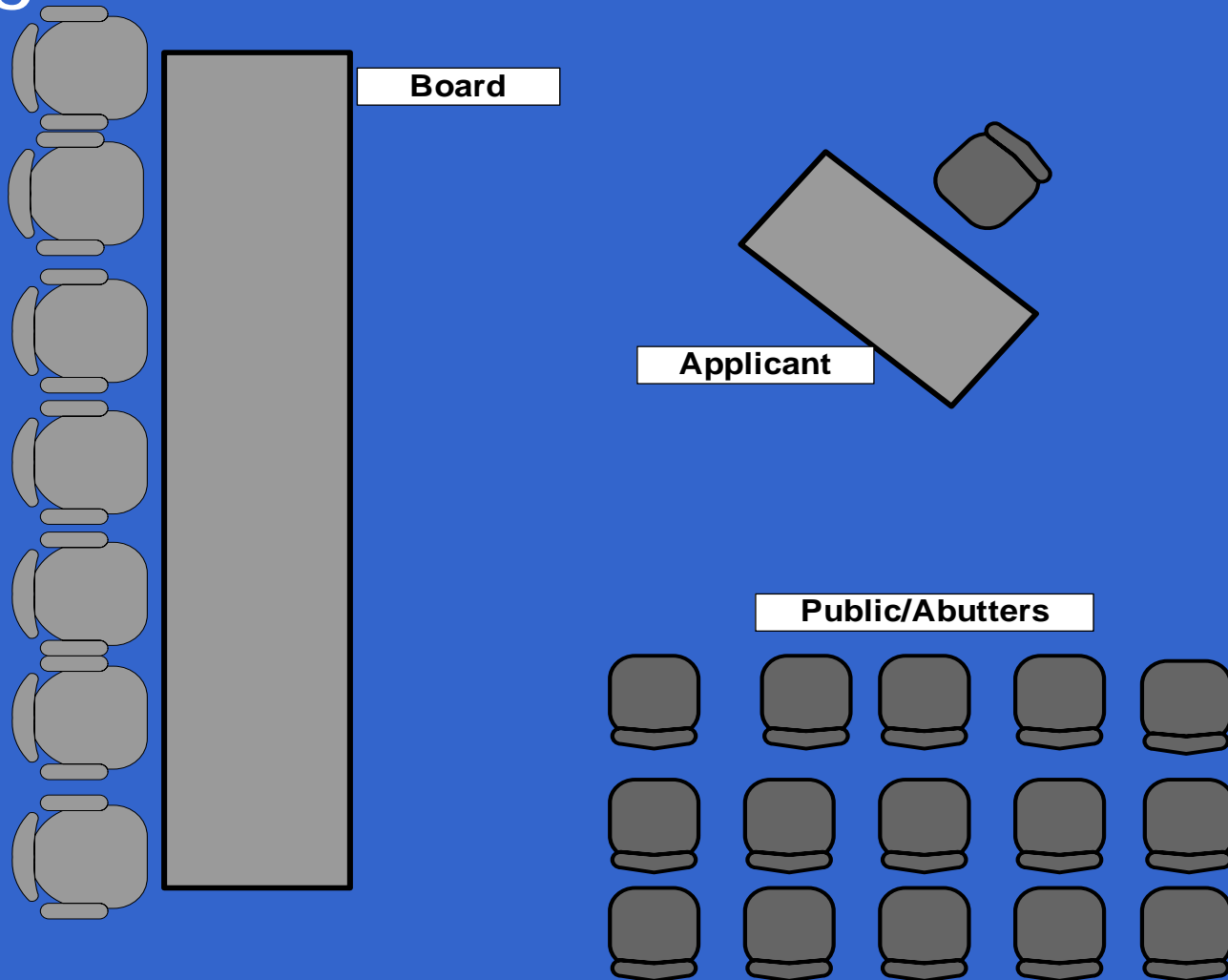
Frequency of Meetings/Quorum

- ZBA meetings mainly dictated by applications, all call of chair.
- Planning Board must hold meetings once per month. RSA 673:10 (III)
- Quorum is majority of membership of land use board

Room Arrangement Can make a Difference



Consider an Alternative Room Arrangement



Role of the Chair

- Job is to get the agenda completed
- Leave everyone feeling as if they have been heard
- Be as neutral as possible
- Be firm and use humor when appropriate

ZBA Chair Can Swear in Witnesses and Board can Compel Attendance of Witnesses- 673:15

- The chairperson of the ZBA or Building Code Board of Appeals may administer oaths.
- These can also compel the attendance of witnesses.
- All expenses incurred for compelling the attendance of a witness shall be paid by the party or parties requesting that a witness be compelled to attend a meeting of the board.

Well Begun is Half Done

- Start on time
- Have Chair stand up and announce meeting has begun
- Have copies of agenda and rules of procedure at entrance to meeting room
- Have all board members and staff introduce themselves and state address
- Have all cell phones and digital devices turned off

Setting limitations on presentations and Duration of Meeting

- During public hearing, establish time limit for applicant presentation, but allow to be uninterrupted (10 – 15 minutes)
- Public hearing testimony by abutters – gently try to get those who have not spoken to indicate they agree with a prior speaker or use opposition/support slips like NH Legislature Committees
- Establish rule will not begin new matter after 10:30pm (or 10:00pm or 11:00pm)

Plan Acceptance – Process and the meaning of “Public Meeting”

- Recommend you listen to project presentation and accept information from abutters
- *DHB v. Pembroke*, 152 NH 314 (2005) 676:4 does not require letting applicant be heard unless bylaws so provide
- Applicant, board questions, abutter input or questions, back to board, vote on acceptance, determine what reports required, set time for site visit

Site Visits

- Secure permission for attendance by abutters and board members
- Ensure centerline of road or outline of building are staked in field beforehand, including wetlands
- Walk centerline of road with applicant's engineer/surveyor available to explain elements of project and to answer questions
- Let anyone ask questions or offer information
- Record the meeting in minutes of board afterward – Right to Know compliance.

Public Hearings

- Chair summarizes status of application (engineering reports rec'd, prior actions by board on waivers, etc., preliminary approval)
- Permit update by applicant
- Questions by board members
- Open public hearing, stand up, speak up and then shut up
- Require all speaking state name and address

Questions – Rhetorical/Informational

- Questions from abutters/concerned citizens that are really statements – acknowledge and ask if member or board can reply, but make clear by Chair reply is courtesy
- Questions from abutters/concerned citizens seeking information – do your best to get the answers from applicant, applicant's engineer, town staff or board members

Effect of Closing Public Hearing – New information

- Public hearing closed, but new information is being submitted from applicant, but board ready for vote
- Must board reopen and have new public hearing to permit abutter comment on new information submitted by applicant?
- Problem of endless reopening of public hearings

Role of Preliminary Approval

- Planning Board approvals can be complex
- Allows Board to address matters in stages
- Grant waivers and other permissions prior to final approval
- Scales back scope of what has to be considered at time of final approval (or denial)

Disorder and Meeting Control

- Applicant, members of the audience and board members are obligated to observe meeting decorum
- Chair has authority to order removal of any person from meeting room for refusing to come to order
- *State v. Dominic*, 117 NH 573 (1977)

Disqualification of Members

- Must be raised by applicant or other interested party to permit action by member or board (e.g., before hearing or vote). See, *Fox v. Greenland*, 151 NH 600(2004)
- 673:14 permits advisory vote by board, before public hearing, is non-binding, and can only be requested by affected member
- When in doubt, recuse yourself
- Recused members leave the table, better yet, leave the room.

Statement by Chairman concerning member disqualification

The panel of (Land Use Board) members and alternates identified during the roll call by the secretary of the Board will sit and deliberate on the application of (insert name of application and application number). At this time I will recognize a representative of the applicant, any abutter or member of the public who wishes to question whether any regular or alternate member of the Board sitting tonight should be disqualified as provided in NHRSA 673:14. If so, please identify yourself for the record, state who you represent, identify the Board member or alternate, and state your position why that Board member or alternate should recuse herself from this application.

Voting

- Chair selects alternates if necessary, RSA 673:11
- But, only designated selectmen's alternate may sit in place of selectmen's representative.
- Voice vote, and if necessary, by show of hands

Abstentions

- Members who abstain cannot do so to prevent existence of quorum
- Members should vote and only abstain when there is a good reason (e.g., failure to be present at all meetings, etc.)
- Abstention will be taken as acquiescence or concurrence in the action supported by the majority of votes cast, whether in the affirmative or the negative. *Opinion of the Justices*, 98 NH 530 (1953)

Written Decisions – RSA 676:3(I)

- Must issue written decisions
- If denial of application, land use board must state written reasons for decision
- Solicit proposed conditions of approval from staff, applicant, even abutters and members of public
- Board members must actively participate

Joint Land Use Board Meetings

- Each board must have joint meeting rules
- If Planning Board involved, Planning Board Chair is chair of joint meeting
- Each involved board renders its own decision.

Land Use Boards Can Reconsider Their Decisions

- In 74 Cox Street LLC v. City of Nashua, 156 NH 228 (2007) the NH Supreme Court stated that land use boards have the inherent authority to reconsider their decisions
- That decision to reconsider must be done within the statutory time period for appeal to the Superior Court.
- The ability to reconsider a decision must be exercised before the statutory appeal period has run. For a ZBA, that means within the 30 days after the day of the ZBA's decision on the motion for rehearing. For the Planning Board that means within 30 days from the date the Board approved or denied a plat or plan.
- The ZBA should adopt a bylaw prescribing the period of time when a motion to reconsider can be filed. The Planning Board could either adopt a bylaw or insert a reconsideration provision in the subdivision and site plan regulations.

Final Thoughts

- It is your meeting, not the applicant's or the abutter's
- Treat applicants, abutters and members of public like invited guests
- Chairperson is important, but just as important is the active involvement of all board members
- Remember that the energy and attention of volunteer board members is a precious and increasingly scarce resource.